



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 21, 1995

Ms. Cheryl N. Elliott
University General Counsel
Texas Southern University
3100 Cleburne Avenue
Houston, Texas 77004

OR95-1283

Dear Ms. Elliott:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 36766.

Texas Southern University (the "university") has received a request under the Open Records Act for "the terms of settlement in which former President Joann Horton's contract was terminated" and a "recording of Sept. 29 regent committee meeting at which Anthony Lyons spoke." You have provided for our review a copy of the separation agreement and claim that it is excepted from disclosure under section 552.102 of the Government Code.¹

Section 552.102 excepts from disclosure information in a personnel file, "the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." This section applies only if the information in a personnel file meets the test for common-law invasion of privacy. *Hubert v. Harte-Hanks Tex. Newspapers*, 652 S.W.2d 546 (Tex. App.--Austin 1983, writ ref'd n.r.e.). Under common-law privacy, information may be withheld only if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is of no legitimate concern to the public. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977).

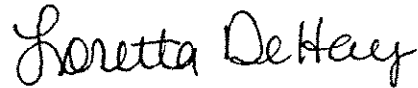
¹Because you do not comment on the second part of the request, we assume that the information has been provided to the requestor.

In Open Records Decision No. 444 (1986), this office determined that the public has a legitimate interest in the circumstances of a public employee's resignation or termination. Furthermore, a governmental body may not simply agree to keep information confidential. Open Records Decision No. 444 (1986) at 6.

We have reviewed the agreement submitted for our review. It does not contain highly intimate or embarrassing information. Furthermore, we believe that there is a legitimate public interest in its disclosure. You must therefore release the separation agreement in its entirety.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office..

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/rho

Ref: ID# 36613

Enclosure: Submitted document

cc: Mr. Todd Ackerman
Reporter
The Houston Chronicle
P.O. Box 4280
Houston, Texas 77210
(w/o enclosure)